IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Writ Petition No. 455 (M/B)) of 2002

1. Vidhya Shabha Bhalaswagaj Haridwar
   An Society Registered under
   U.P. Societies Registration Act through
   Its Manager
2. Manager Vidhya Sabha Bhalaswagaj
   Rastriya Inter College
   Village and Post – Bhalaswagaj
   Tehsil Roorkee
   District Haridwar .....Petitioners

Versus

1. District Inspector of Schools
   Haridwar
2. State of Uttaranchal through its
   Secretary of Education Dehradun ...Respondents

Hon'ble P.C. Verma, - ACJ
Hon'ble M.M. Ghildiyal, J.

By Means of this writ petition the petitioner has challenged order dated 02.07.2002 and 31.07.2002 passed by the respondent no. 1, District Inspector of Schools, Haridwar directing the petitioners to admit all the persons as member of the society who have applied for membership either by post or by making application by hand.

Heard Sri Alok Singh learned counsel for the petitioner and learned Standing Counsel for the respondents as well as Sri Manoj Tiwari and Sri Lok Pal Singh learned counsel who have moved intervention application.

Learned Chief Standing Counsel was granted time to seek instructions on 09.08.2002, no counter affidavit has been field by the respondent till date.

The facts of the case are that the petitioner no. 1 is a registered society managing the affairs of Rashtriya Inter College, Village and Post Bhalaswagaj, District Haridwar. The petitioner no. 2 is the duly elected Manager of petitioner no. 1. By order dated 02.07.2002, the District Inspector of Schools directed the petitioner no. 2 to ensure

membership of persons mentioned in the letter as recommended by the M.L.A. of the area and when the petitioner did not take any action in response to the aforesaid letter, the respondent no. 1 vide letter dated 31.07.2002, further directed the petitioner no. 2 to admit all the persons as a member of the society who have applied for membership either by post or have made application by hand.

The contention of the petitioner is that neither the M.L.A. of the area nor the respondents have any jurisdiction to direct the petitioner to admit any person as a member of General Body of the petitioner no. 1 without adopting the procedure granting membership as prescribed under the Scheme of Administration of the society.

In support of his contention, learned counsel for the petitioner has placed reliance on the judgment of Hon'ble Supreme Court in the case of **Smt. Damyanti Vs. Union of India and the Hindi Sahitya Sammelan & others Vs. Jagdish Swaroop and others AIR 1971 Supreme Court 966** for the preposition that the right to form an association is quoted below:-

> "*The right to form an association, necessarily implies that the persons forming the association have also the right to continue to be associated with only those whom they voluntarily admit in the association. Any law, by which members are introduced in the voluntary Association without any option being given to the members to keep them out, or any law which takes away the membership of those who have voluntarily joined it, will be a law violating the right to form an association.*

We find force in the submission of learned counsel for the petitioners, which are supported by the Apex Court Judgment mentioned above.

In the present writ petition facts of the case are that there is no law by which the District Inspector of Schools could compel the petitioners to induct persons as a member of the Society on the ground that they have been recommended by the local M.L.A. to be inducted

as per member of the society. The society is a registered society according to the Scheme of Administration. Unless there remain any such provision under the scheme of administration which compels the society to accept the persons as members on the recommendation of District Inspector of Schools or the local M.L.A. no such enforcement shall legally possible.

The District Inspector of Schools has no jurisdiction to direct the registered society having its own Scheme of Administration, to admit any person as a member of general body. Any person can be inducted as a member only in accordance with the provision of Scheme of Administration.

For the reasons stated above the impugned order are without jurisdiction and as such are quashed. The writ petition is allowed no order as to costs.

(Hon. M.M. Ghildiyal, J.) **(Hon. P.C. Verma, A.C.J.)**

April 19 , 2004
ASWAL